

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
BHUPENDRA K. SHAH,

Plaintiff,

- against

HELEN HAYES HOSPITAL and N.Y.  
STATE DEPARTMENT OF HEALTH.

Defendants  
-----

DOCKET # 04 CV- 07342 (KMK)(LMS)

MOTION TO STRIKE DEFENDANTS'  
OPPOSITION AS UNTIMELY AND  
FOR SANCTIONS BASED ON FRAUD  
UPON THE COURT

TO THE HONORABLE COURT:

Plaintiff Bhupendra Shah, appearing pro se, respectfully submits this motion pursuant to Rule 11 of the Federal Rules of Civil Procedure and the Court's inherent powers, seeking an order: Striking Defendants' opposition paper dated May 28, 2025 as untimely;

Imposing sanctions on Defendants' counsel for knowingly making false representations to this Court;

Directing defense counsel to show cause why further disciplinary action should not be considered for their conduct.

I. FACTUAL BACKGROUND

On June 16, 2025, Defendants filed a submission with the Court in which they stated: "OAG's New York City Litigation Bureau eventually received plaintiff's subsequent related filing on May 14, 2025, and defendants' response was filed 14 days thereafter."

This statement is materially false. The Court docket confirms that no filing by Plaintiff was made on May 14, 2025. Defendants fabricated the existence of a May 14 filing to falsely justify their own filing of May 28, 2025, as timely. This misrepresentation constitutes a deliberate attempt to mislead the Court and manipulate procedural deadlines.

## **II. LEGAL GROUNDS**

### **A. Rule 11 Violation**

Rule 11(b)(3) requires that factual contentions presented to the Court have evidentiary support. Fabricating a filing date violates this rule and constitutes grounds for sanctions.

### **B. Fraud Upon the Court**

The Supreme Court has defined "fraud upon the court" as conduct that "defiles the court itself," such as "a scheme to interfere with the judicial machinery." See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944). See also *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44-45 (1991) (court's inherent power includes authority to sanction conduct that abuses the judicial process).

The fabrication of a filing date in an attempt to make a late filing appear timely is not a mere oversight — it is a deliberate deception that undermines the judicial process.

## **III. REQUESTED RELIEF**


Plaintiff respectfully requests that the Court:

(i) Strike the Defendants' opposition filed on May 28, 2025. (ii) Impose appropriate sanctions on Defendants' counsel for knowingly submitting false factual statements to the Court and (iii) Direct Defendants' counsel to show cause why their conduct should not be referred to the appropriate disciplinary authorities.

## **IV. CONCLUSION**

This Court should not countenance any attempt by an officer of the Court to mislead it by inventing fictitious procedural events. Such actions erode the integrity of the Court and prejudice the opposing party. Plaintiff therefore respectfully requests the Court to grant the relief requested.

Respectfully Submitted

  
Bhupendra Shah (Pro Se)

540 Highview Avenue

Pearl River, NY 10965

845-623-6158

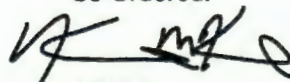
[kbshah922@gmail.com](mailto:kbshah922@gmail.com)

June 20, 2025

Motion to Strike Defendants' Response to Plaintiff's Rule 60(b) Motion is denied as moot and on the merits. The Court has already denied Plaintiff's Rule 60(b) Motion and has already ruled that Defendants' tardy response to Plaintiff's Motion was properly considered by the Court. There was no fraud. Thus, the Motion for Sanctions also is denied. Finally, while Plaintiff may, of course, appeal the Court's order denying the Rule 60(b) Motion, there is no need for the filing of any motions before this Court. This case is closed.

2

So Ordered.

  
6/27/25



03/10/2025	<u>39</u>	MOTION FOR RELIEF FROM JUDGMENT ENTERED ON MAY 23, 2006 INVOKING RULE 60(b)(5) OF F.R.C.P. Document filed by Bhupendra K. Shah. (jjc) (Entered: 03/12/2025)
03/10/2025	<u>40</u>	MEMORANDUM OF LAW IN SUPPORT OF THE MOTION FOR RELIEF FROM JUDGMENT INVOKING RULE RULE 60(b)(5) OF F.R.C.P. re: <u>39</u> MOTION MOTION FOR RELIEF FROM JUDGMENT ENTERED ON MAY 23, 2006 INVOKING RULE 60(b)(5) OF F.R.C.P.. Document filed by Bhupendra K. Shah. (jjc) (Main Document 40 replaced on 4/9/2025) (tp). (Entered: 03/12/2025)
04/22/2025	<u>41</u>	NOTICE OF NO OPPOSITION TO PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT UNDER RULE 60(b)(5) re: <u>39</u> MOTION MOTION FOR RELIEF FROM JUDGMENT ENTERED ON MAY 23, 2006 INVOKING RULE 60(b)(5) OF F.R.C.P... Document filed by Bhupendra K. Shah. (tg) (Entered: 04/24/2025)
04/22/2025	<u>42</u>	NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT UNDER RULE 60(b)(5). Document filed by Bhupendra K. Shah. (tg) (Entered: 04/24/2025)
04/22/2025	<u>43</u>	REQUEST FOR RULING ON PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT UNDER RULE 60(b)(5). Document filed by Bhupendra K. Shah..(tg) (Entered: 04/24/2025)
05/08/2025		NOTICE OF CASE REASSIGNMENT to Judge Kenneth M. Karas. Judge Charles L. Brieant is no longer assigned to the case. (vba) Modified on 5/12/2025 (vba). (Entered: 05/12/2025)
05/08/2025		Magistrate Judge Victoria Reznik is so redesignated to handle matters that may be referred in this case. (laq) (Entered: 05/12/2025)
05/28/2025	<u>44</u>	NOTICE OF APPEARANCE by Julia Alexandra Busetti on behalf of Helen Hayes Hospital, NY Department of Health..(Busetti, Julia) (Entered: 05/28/2025)
05/28/2025	<u>45</u>	LETTER addressed to Judge Kenneth M. Karas from Julia Busetti dated May 28, 2025 re: Plaintiff's Rule 60 Motion for Relief from Judgment. Document filed by Helen Hayes Hospital, NY Department of Health. (Attachments: # <u>1</u> Exhibit A - Report and Recommendation, # <u>2</u> Exhibit B - Memorandum and Order).(Busetti, Julia) (Entered: 05/28/2025)
05/28/2025	<u>46</u>	CERTIFICATE OF SERVICE of Notice of Appearance (ECF No. 44) and Defendants' letter response to Plaintiff's Rule 60 Motion (ECF No. 45) served on Bhupendra K. Shah on May 28, 2025. Service was made by Mail. Document filed by Helen Hayes Hospital, NY Department of Health..(Busetti, Julia) (Entered: 05/28/2025)
06/09/2025	<u>49</u>	MOTION TO STRIKE DEFENDANTS' LATE RESPONSE TO PLAINTIFF'S MOTION DATED MARCH 7, 2025. Document No. <u>45</u> . Document filed by Bhupendra K. Shah.(km) (Entered: 06/11/2025)

Exhibit - A